

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

**EDWARD GARZA AND CHARLENE
RAMIREZ,**

Plaintiffs,

V.

**UNITED PROPERTY & CASUALTY
INSURANCE COMPANY, UNITED
INSURANCE MANAGEMENT LC,
AND MARK BYUN,**

Defendants.

**CIVIL ACTION
NO.:_____**

**DEFENDANT UNITED PROPERTY & CASUALTY INSURANCE COMPANY'S
NOTICE OF REMOVAL**

Defendant United Property & Casualty Insurance Company ("Defendant" or "UPC") files this Notice of Removal:

I. Background

1. On June 27, 2017, Plaintiffs Edward Garza and Charlene Ramirez ("Plaintiffs") filed this lawsuit in Hidalgo County, Texas, naming UPC, United Insurance Management LC ("UIM") and Mark Byun ("Byun") as Defendants.
2. Plaintiffs served UPC with a copy of the Original Petition on July 31, 2017.
3. Upon information and belief, Defendant Mark Byun has not been served.
4. Upon information and belief, Defendant United Insurance Management LC has not been served.

5. UPC files this notice of removal within 30 days of receiving Plaintiffs' initial pleading. *See* 28 U.S.C. § 1446(b). In addition, this Notice of Removal is being filed within one year of the commencement of this action. *See id.*

6. As required by Local Rule 81 and 28 U.S.C. § 1446(a), simultaneously with the filing of this notice of removal, attached hereto as Exhibit "A" is an Index of Matters Being Filed. A copy of the Case Summary Docket Sheet is attached as Exhibit "B." A copy of Plaintiffs' Original Petition is attached as Exhibit "C." A copy of the Citation and Return of Service to UPC is attached as Exhibit "D." A copy of the Civil Process Request for Defendants is attached hereto as Exhibit "E." Defendant United Property & Casualty Insurance Company's Original Answer to Plaintiffs' Original Petition is attached as Exhibit "F." A list of Counsel and Parties to the Case is attached as Exhibit "G." A copy of this Notice is also being filed with the state court and served upon the Plaintiffs.

7. Venue is proper in this Court under 28 U.S.C. § 1441(a) because this district and division embrace Hidalgo County, Texas, the place where the removed action has been pending.

II. Basis for Removal

8. Removal is proper based on diversity of citizenship under 28 U.S.C. §§ 1332(a), 1441(a) and 1446. This is a civil action between citizens of different states, and the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

A. The Proper Parties Are Of Diverse Citizenship.

9. Plaintiffs are, and were at the time the lawsuit was filed, residents and citizens of Texas.

10. UPC was at the time this action was commenced, and still is, a foreign (Florida) property and casualty insurance company authorized to do business in the State of Texas. UPC is organized under Chapter 982 of the Texas Insurance Code.

11. Upon information and belief, Mark Byun is, and was at the time the lawsuit was filed, a resident and citizen of the State of Florida.

12. Upon information and belief, United Insurance Management LC is a division within UPC, a Florida property and casualty insurance company and is itself a Florida limited liability company.

13. Because Plaintiffs are citizens of Texas, Defendants are citizens of Florida, complete diversity of citizenship exists among the proper parties.

B. The Amount in Controversy Exceeds \$75,000.00.

14. This is a civil action in which the amount in controversy exceeds \$75,000.00. Plaintiffs allege that UPC is liable under a residential insurance policy because Plaintiffs made a claim under that policy and UPC wrongfully adjusted Plaintiffs' claim. Plaintiffs specifically allege that they "seek monetary relief over \$100,000.00 but not more than \$200,000.00." See Ex. C, ¶ 7.

15. Moreover, Plaintiffs' Original Petition alleges that UPC is liable under various statutory and common law causes of action for consequential damages, statutory penalties, treble damages, exemplary damages, court costs, and attorney's fees. As such, Plaintiffs' alleged damages greatly exceed \$75,000.00.

III. Conclusion and Prayer

16. Accordingly, all requirements are met for removal under 28 U.S.C. §§ 1332 and 1441. United Property & Casualty Insurance Company removes this case to this Court for trial and determination.

Respectfully submitted,

/s/ Rhonda J. Thompson

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**COUNSEL FOR DEFENDANT
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CERTIFICATE OF SERVICE

This is to certify that on the 30th day of August, 2017, a true and correct copy of the foregoing was delivered to the following counsel of record by electronic service and/or facsimile transmission and/or certified mail, return receipt requested:

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